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Sun Microsystems, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.,  
  
Plaintiff/Counterdefendant,  
  
v.  
  
SUN MICROSYSTEMS, INC., a Delaware  
corporation,  
  
Defendant/Counterplaintiff.

CASE NO. 3:07-CV-06053 EDL

**SUN'S UNOPPOSED REQUEST AND  
[PROPOSED] ORDER ALLOWING SUN  
TO AMEND ITS INFRINGEMENT  
CONTENTIONS FOR U.S. PATENT NO.  
6,873,630**

WHEREAS, Sun Microsystems, Inc. ("Sun") has recently represented to NetApp, Inc. ("NetApp") that Sun has recently discovered new information regarding NetApp's sales of third-party 10 Gigabit Ethernet switches;

WHEREAS, Sun has requested that NetApp accept service of amended infringement contentions for United States Patent No. 6,873,630 ("the '630 patent") to include infringement by third-party 10 Gigabit Ethernet switches supplied to NetApp and/or NetApp end users;

1 WHEREAS, NetApp does not object to Sun's service of amended infringement  
2 contentions for the '630 patent to include infringement by third-party 10 Gigabit Ethernet  
3 switches supplied to NetApp and/or NetApp end users;

4 THEREFORE, Sun respectfully requests that the Court allow Sun, pursuant to Patent  
5 Local Rule 3-6, to amend its infringement contentions for its U.S. Patent No. 6,873,630 to include  
6 infringement by third-party 10 Gigabit Ethernet switches supplied to NetApp and/or NetApp end  
7 users.

8  
9 Dated: February 24, 2009

10 DLA PIPER LLP (US)

11 /s/ Christine K. Corbett

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17  
18 Dated: February 24, 2009

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23 Jeffrey G. Homrig  
Jill J. Ho  
Patricia Young (Admitted *Pro Hac Vice*)

24 Attorneys for Defendant,  
25 Network Appliance, Inc.

**ORDER**

Having considered Sun's unopposed request, Sun's request for relief is **GRANTED**. Sun is allowed to amend its infringement contentions for its U.S. Patent No. 6,873,630 to include infringement by third-party 10 Gigabit Ethernet switches supplied to NetApp and/or NetApp end users.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 26, 2009

